

PROPOSED AMENDMENT UNDER 37 C.F.R. 1.116 AFTER TAKING APPEAL PAGE 5
Serial No. 09/627,682 Attorney Docket No. 400.008US01
Title: SYNCHRONOUS NON-VOLATILE MEMORY SYSTEM

REMARKS

In a telephonic conversation with the Examiner, Behzad Peikari on April 12, 2005, with the below-signed attorney, Andrew C. Walseth, the Examiner and Applicant's Representative discussed the pending claims on appeal.

The Examiner and Applicant's Representative specifically discussed the Applicant's pending Appeal of August 10, 2004 and claims 1, 2 and 34. The Examiner stated that after considering the Applicant's Appcal hc was withdrawing his rejection of claims 1, 2 and 34 under 35 U.S.C. §102(b). However, the Examiner also stated that, if a new Office Action were to be issued after Appeal, he would have to reject claim 1 under 35 U.S.C. §102(b) as being anticipated by Mills et al. (U.S. Patent No. 6,564,285) and under 35 U.S.C. §103(b) as being anticipated by Rolandi (U.S. Patent No. 6,198,660) and Takeda (U.S. Patent No. 6,111,815). The Examiner further stated that dependent claim 2 and independent claim 34 would be allowable, but that if the limitations of claim 1 were incorporated into claim 2, he would have to object to claim 34 as potentially duplicate to claim 2 under 37 CFR §1.75. The Examiner and the Applicant's Representative agreed that the Applicant's Representative would draft a proposed amendment under 37 C.F.R. §1.116 to cancel claim 1 without prejudice to allow the patent application to go to issuance and to correct the above stated duplicate claim issues of claims 2 and 34.

Applicant believes the foregoing Examiner Interview Summary accurately reflects the substance and scope of the telephonic interview of April 12, 2005. The Examiner is invited to contact Applicant's Representative if there are any changes or questions regarding this Examiner Interview Summary or if prosecution of this application may be assisted thereby.

Amendments to the Claims

Claim 1 has been cancelled herein without prejudice to allow the remaining claims to proceed to issuance. The Examiner indicated that claim 2 would be allowable if amended to include all limitations of claim 1. Claim 2 has been herein amended to include all limitations of claim 1 and is therefore believed to be in condition for

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allowance. Claims 27-28, 30 and 33 have been amended to depend from claim 2. As claims 27-33 depend directly or indirectly from and further define patentably distinct claim 2, they are also deemed to be in condition for allowance.

Applicant has also amended claim 34 herein and respectfully submits that the scope of claim 2 and claim 34 are different. The Applicant therefore believes the prohibition of duplicate claims under 37 CFR 1.75 to be satisfied. Applicant notes that the proposed amendment to claim 34 is the same as requested in the Applicant's Response to Final mailed April 30, 2004. This amendment was requested to overcome the Examiner's objection to claim 34 as potentially duplicate to claim 2 under 37 CFR 1.75 in the Final Office Action mailed on March 19, 2004, but was disallowed entry by the Examiner for failing to place the claims in better condition for appeal.

As Applicant believes claims 2 or 34, as amended, to be generic to one or more of claims 27-33 and 35-38, the Applicant also requests re-entry and consideration of withdrawn claims 27-33 and 35-38, which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

In view of the above amendments to the claims, Applicant respectfully submits that the claims would be in condition for allowance if the amendments were entered and requests reconsideration of the application and indication of allowability of the amended claims.

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CONCLUSION

The Examiner is invited to contact Applicant's representative at the number below if there are any questions regarding this response or if prosecution of this application may be assisted thereby.

Respectfully submitted,

Date: 4/13/05


Andrew C. Walseth

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